

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

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Caesarea Develle James,  
Plaintiff

vs

WMC Mortgage Corp.,  
Defendant

Case No. C-1-10-003  
(Dlott, J)  
(Wehrman, M.J.)

**REPORT AND  
RECOMMENDATION**

On October 8, 2010, the Court ordered Plaintiff to show cause why this action should not be dismissed for failure of service. The Court informed Plaintiff that proper service has not been perfected upon Defendant pursuant to Federal Rule of Civil Procedure 4. (*See* Doc. 11).

District courts have the inherent power to dismiss civil actions for want of prosecution to “manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-31 (1962). Failure of a party to respond to an order of the court warrants invocation of the Court's inherent power. *See* FED. R. CIV. P. 41(b). Plaintiff, in failing to respond to the Court’s order, has failed to establish that he has obtained proper service upon Defendant. Absent proper service, this Court lacks personal jurisdiction over the Defendants. *Amen v. City of Dearborn*, 532 F.2d 554 (6th Cir. 1976), cert. denied, 465 U.S. 1101 (1984). For this reason, the Court recommends that Plaintiff’s Complaint be dismissed for failure of service and failure to abide by a Court order.

**IT IS THEREFORE RECOMMENDED THAT:**

1. Plaintiff’s Complaint be DISMISSED WITHOUT PREJUDICE for  
failure of service and failure to abide by a Court order; and

3. The Court certify pursuant to 28 U.S.C. § 1915(a) that an appeal of its Order dismissing the action is not taken in good faith and that Plaintiff be denied leave to appeal *in forma pauperis*. Plaintiff would remain free to apply to proceed *in forma pauperis* in the Court of Appeals. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

Date: 11/24/10

/s J. Gregory Wehrman  
J. Gregory Wehrman  
United States Magistrate Judge

**NOTICE TO THE PARTIES REGARDING THE FILING  
OF OBJECTIONS TO THIS R&R**

Pursuant to Fed. R. Civ. P. 72(b), within fourteen (14) days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).